Section	Comment #	Comment	Response
General	2C13	With the exception of the trust fund or pledge of revenue, the proposed financial mechanisms do not protect local governments and rate payers from financial liability in the event a private landfill operator files for bankruptcy. Trust funds should be the only financial mechanism allowed for private landfill operators.	This comment is beyond the scope of this rulemaking. Under Public Resources Code 43601(b), an operator is permitted to use any financial mechanism allowed under RCRA Subtitle D. Therefore, to prohibit the use of an allowed mechanism by private landfill operators, a statutory change would be necessary.
General	2N1	The regulations should not be adopted as written as they are not protective of the state's taxpayers public health, safety, and the environment.	The Board has considered protection to the state's taxpayers, public health, safety and the environment in directing staff in drafting the proposed regulations.
General	2N2	The largest costs associated with managing a landfill, including major maintenance, have not been adequately accounted for.	The need for major maintenance items not addressed in the postclosure maintenance costs would be considered in the development of the corrective action cost estimate. After consideration, the comment is noted, but no amendment is suggested.
General	2N3	Unrealistically low landfill default assumptions were used in the analysis of the regulations.	The Board received comments on both sides of this issue and has determined that the default assumptions used are appropriate. After consideration, the comment is noted, but no amendment is suggested.
21200	2M13, 2M25	A new ¶(d) should be added to require that the notification required by this § be handled as trade-secret confidential information.	The comment is noted. Confidentiality can be requested under existing confidentiality rules (14 CCR Div. 7, Ch. 1, Art. 4) at the time of submittal. No further amendment is suggested.
21200(a)	2C1	The new owner or operator should also be required to notify the local land use planning agency.	This is a local issue that should be addressed at the local level. No further amendments to the proposed regulations are suggested based on this comment.
21200(c)	2C6	Corrective action cost estimate and plan should be added to the required information.	The list of items in this § is not an information submittal list. The listed documents are those that contain terms and conditions that the operator must meet. The corrective action plan and estimate do not contain terms and conditions. Therefore, the inclusion is unnecessary. No further amendment is suggested.

Section	Comment #	Comment	Response
21200(c)(1)	2C2	Notification should be sent to owners and operators rather than owner or operator.	The suggested change has been made.
21200(c)(1)	2C4	Notification of the local land use planning agency should also be required.	This is a local issue that should be addressed at the local level. No further amendments to the proposed regulations are suggested based on this comment.
21200(c()2)	2C3	Notification should be sent to owners and operators rather than owner or operator.	The suggested change has been made.
21200(c)(2)	2C5	Notification of the local land use planning agency should also be required.	This is a local issue that should be addressed at the local level. No further amendments to the proposed regulations are suggested based on this comment.
21200(d)	2C7	A ¶ should be added to require the owner or operator to include a statement in the property title that the site has been used as a disposal site and that the new owner/operator must document appropriate financial assurances prior to close of escrow transferring site ownership.	The comment is outside the scope of current rulemaking. § 21170 already requires this notification, except for the identification of the financial assurance requirements. Additionally, the Board is not the ultimate agency for approval of the escrow transaction. The regulations already clearly identify the Board's approval process and requirements for transfer of ownership. No further amendment is suggested.
21685(b)(6)	2H1	The reference in this § should be revised to §22221(b) instead of §22101.	The reference to §21101 is correct since this § relates to corrective action cost estimates. §22221(b) refers to financial assurances. No further amendment is suggested.

Section	Comment #	Comment	Response
21820(a)(2)	2L6	This § should clearly indicate that it is only applicable to activities required for closure at the time of closure and not activities that may occur after closure.	The regulation requires the closure cost estimate to include only those monitoring and control systems that are required for closure not simply those that are remaining to be completed at the time of closure. The comment does not take into account premature closure, when an activity is required for closure, but not yet implemented. If an activity is not required for closure (e.g., landfill gas control system), but potentially may be required in the future, it would be addressed through the corrective action financial assurance requirements. The regulation was previously revised to indicate that activities "required for closure" are those that have to be included in the cost estimate.
21820(b)(3)	2C8	This § should be expanded to include the estimated cost of maintenance of landscaping and plant vegetation in the closure cost estimate.	The estimated cost of maintenance of landscaping and plant vegetation is already required to be included in the postclosure maintenance cost estimate. It is neither necessary nor appropriate to require these costs in the closure estimate since these are maintenance costs. No further amendment is suggested.
21820(b)(3)(C)	2L7	This § should clearly indicate that it is only applicable to activities required for closure at the time of closure and not activities that may occur after closure.	The regulation requires the closure cost estimate to include only those monitoring and control systems that are required for closure not simply those that are remaining to be completed at the time of closure. The comment does not take into account premature closure, when an activity is required for closure, but not yet implemented. If an activity is not required for closure (e.g., landfill gas control system), but potentially may be required in the future, it would be addressed through the corrective action financial assurance requirements. The regulation was previously revised to indicate that activities "required for closure" are those that have to be included in the cost estimate.

Section	Comment #	Comment	Response
21865(a)	2D10, 2D11, 2G7, 2J14, 2L1, 2M10, 2M14	Sites that have already closed should not have to submit updated closure plans every five years since there is no need.	The regulations require amendments "as necessary" to the closure and postclosure maintenance plans. Revisions to closure plans may be necessary for landfills that have been certified closed to reflect modifications to final cover or other environmental control systems primarily to reflect changes in postclosure land use or corrective actions. If no amendment is necessary, re-submittal of the closure plan would not be required. A statement by the operator that the site is certified closed and no changes are proposed is sufficient. The regulations as proposed already allow the operator to avoid submitting updated closure plans for certified closed sites if no changes are contemplated. However, the regulations are flexible for those cases when closure changes are necessary and appropriate. After consideration, the comment is noted, but no amendment is suggested.
21865(a)	2L8	If the most current plan is on file, the applicant should be able to indicate there are no changes to eliminate submittal of excess copies.	The change has been made.
21865(a)(1)(A)	2B1	December 31, 1996 should be January 1, 1997 to avoid missing a day.	Agree. The change has been made.
21865(a)(2)	2D12, 2M15	The term "or for a SWFP revision" should be added to the end of this § since submittals should be updates for permitted facilities.	The proposed addition to ¶(a)(2) is not necessary since this ¶ applies to disposal sites without permits. Disposal sites with permits are addressed in ¶(a). Permitted sites are already required to submit updated plans at each permit review or revision. No further amendment is suggested.
21865(a)(2)	2E1	Will the same professional that prepared the earlier plans be able to prepare the updated plans although they may be viewed as affiliated with the owner or operator?	The requirement for an independent third party preparation is limited to the correction action plan pursuant to §21102. The same limitation does not apply to closure and postclosure maintenance plans. No further amendment is suggested.

Section	Comment #	Comment	Response
21865(a)(2)	2E2	The regulations require updated plans at least every five years. The updated plans should be required only every ten years since in most cases there are no significant changes including costs other than inflation.	The regulations require amendments "as necessary" to the closure and postclosure maintenance plans. If no amendment is necessary, re-submittal of the closure plan would not be required. A statement by the operator that the site is certified closed and no changes are proposed is sufficient. For the past 20 years CIWMB staff has found that there have been significant changes in costs in less than five year periods. Therefore, in a previous rulemaking the cost estimate portions of the regulations were revised to require more detailed estimates and updates. No further amendment is suggested.
21865(b)	2D13, 2M16	Since some closed sites do not have a JTD the submittal should be focused on the requirements of the submittal rather than the format.	For those disposal sites without a JTD, the closure plan and postclosure maintenance plan become a JTD. In the format of a JTD refers to inclusion of the JTD index. Furthermore, this is a requirement of the regional water quality control boards. To avoid the necessity of separate plan submittals, this requirement is included. No further amendment is suggested.
21865(c)	2D14, 2M17	To prevent every change from being included in an update, the phrase should read: "Any substantive change in"	The regulations already limit the required information to be submitted within ¶¶(a), (b), and (c) to that which will affect the implementation of closure and/or postclosure maintenance and changes in closure year and financial assurance mechanisms. After consideration, the comment is noted, but no amendment is suggested.
21865(c)(1)(A)	2A1	Any change in operation is subjective as to whether it affects implementation of closure and/or postclosure maintenance plans. Therefore, a dispute may occur between LEA and operator.	The LEA will use its professional judgment and experience to determine what changes in operation affect implementation of closure and postclosure maintenance plans. The LEA and operator can resolve any disputes through existing dispute resolution avenues. After consideration, the comment is noted, but no amendment is suggested.

Section	Comment #	Comment	Response
21865 (*Note*)	2K6	This text should not be deleted because it will prevent unnecessary submittal and review.	As delineated in the ISOR, the *note* was removed because the regulations are now clarified sufficiently to make the note unnecessary. Furthermore, review of previously approved portions of the plans may be necessary to determine if revisions should have been submitted to reflect changes in design, regulations, or other reasons. After consideration, the comment is noted, but no amendment is suggested.
21880(d)	2K7	Only 60 days should be allowed for agency review of the certification rather than 120 days as 60 days is sufficient.	Closure certification reports are complex documents containing significant amounts of data requiring detailed review. Acceptance of a report indicates that a site has fulfilled all necessary requirements for closure. Since this is a major occurrence, a full, complete, and careful review of the report is prudent and necessary. After consideration, the comment is noted, but no amendment is suggested.
21880(d)	2K8	The § should include a default approval if the agencies do not approve or comment on the certification report within the required timeline.	Since acceptance of the closure certification submitted by the operator releases the operator from the requirement for closure financial assurance, it would not be prudent to release the financial assurance without the regulatory agencies providing a positive acceptance of the certification. Also, should an agency not provide a determination within the prescribed deadline, the operator may avail itself of the internal appeal process for that particular agency. After consideration, the comment is noted, but no amendment is suggested.
21880(d)	2L10	The regulations should be revised to indicate that if the certification is not approved, the agencies should provide the reason(s) for non-approval.	¶(d) requires the reviewing agencies to submit their comments on the certification report to the operator. Therefore, the regulations already require the reviewing agencies to provide the basis for non-approval. After consideration, the comment is noted, but no amendment is suggested.

Section	Comment #	Comment	Response
21880(e)	2D15	This § should be revised to specifically state that the as-built costs cannot be a basis for disapproving closure certification.	The current proposed regulation does not contemplate nor allow for denial of closure certification based on the as-built costs being substantially different than the estimated costs. However, if the costs are not submitted, as required, closure certification may be postponed due to an incomplete submittal. After consideration, the comment is noted, but no amendment is suggested.
21880(f)	2C9	The owner should be added as being released from financial assurance requirements.	This comment is not directed at the proposed regulatory action. A subsequent rulemaking will address issues relating to the clarification of operator/owner responsibilities for financial assurances. After consideration, the comment is noted, but no amendment is suggested .
22100	2J12	The regulations should be clear that activities covered under postclosure maintenance should not be required to be included in the corrective action plan.	A definition of corrective action has been included, which indicates that routine maintenance is not considered corrective action.
22100	2M7	The regulations need to clearly state that the corrective action cost estimate is the greater of the water quality and most expensive non-water quality corrective action.	The regulations require the submittal of two cost estimates: water release (§22101(a)) and non-water release (§22101(b) or (c)) estimates. The financial assurance requirements for corrective action (§22220 et seq.) specify how the estimates are used to determine financial assurance requirements. §22221(b) states that the operator shall demonstrate financial responsibility for the greater of either the water release estimate or the non-water release estimate. §22101(d) has been amended, headings have been added in §§22101 and 22221, and §22101 has been reordered to clarify this.
22100(b)	2J11	The regulations should be clear that activities covered under postclosure maintenance should not be required to be included in the corrective action plan.	A definition of corrective action has been included, which indicates that routine maintenance is not considered corrective action.

Section	Comment #	Comment	Response
22101	2J2, 2M5	This § should clarify that there are three options for non-water release corrective actions.	As drafted, the regulations specify two (2) options for preparing non-water release corrective action cost estimates. The default option is to provide an estimate for complete final cover replacement. This option has two ways to calculate the estimate (providing a new estimate or using the existing closure cost estimate, adjusted as necessary, as a reasonable estimate of the cover replacement cost). The second option is to provide a site-specific corrective action plan, which must include non-water release cost estimates. §22101 has been amended to clarify this.
22101	2L12	It is appreciated that the corrective action financial assurance can be included in the existing corrective action mechanism.	Comment noted.
22101(b)	2D16, 2E3, 2J4, 2M6, 2M18	This § should be deleted since complete final cover replacement in not a reasonably foreseeable event.	Depending upon site specific situations, final cover replacement may be a reasonably foreseeable event. Further explanation is provided in the FSOR. No further amendment is suggested.
22101(b)	2J5	What the term "whichever is greater" refers to needs to be better defined in this §, including subsections.	This § has been amended to clarify the use of the term "whichever is greater" in several sections concerning cost estimates. The term is used to require that either the highest recently submitted or highest approved estimate be used until the most recently submitted estimate is approved. This prevents an operator from submitting a low, inaccurate estimate for financial assurance purposes. No further amendment is suggested.
22101(b)(1)	2E4	The phrase "and preparing for and installing the new cover, as necessary, depending on the replacement final cover system design" should be clarified or deleted.	The indicated phrase is included in this § since a final cover replacement will necessitate the preparation for and installation of a new cover. The extent of the preparation and installation costs is dependent upon the existing and proposed final cover design, hence the term "as necessary." After consideration, the comment is noted, but no amendment is suggested.

Section	Comment #	Comment	Response
22101(b)(1)	2L2	The term "as necessary" should be clarified.	A final cover replacement will necessitate the preparation for and installation of a new cover. The extent of these items is dependent upon the existing and proposed final cover design, hence the term "as necessary." After consideration, the comment is noted, but no amendment is suggested.
22101(b)(2)	2E5	This § should be deleted since it does not have relevance during the landfill's postclosure maintenance period.	The use of the closure cost estimate in lieu of preparing a more specific final cover replacement estimate is provided as an option for operators. The purpose of using the closure cost estimate is to serve as a reasonable estimate of the cost of final cover replacement, in lieu of requiring an operator to prepare a more specific, detailed estimate for the cover replacement cost. Since all landfills must already prepare closure cost estimates, this option allows an operator to easily and inexpensively prepare a corrective action cost estimate for the cover replacement cost. ¶(b)(1) has been changed to clarify the purpose of using the closure cost estimate in this situation.
22101(c)	2J6	For greater clarity, ¶(c) should have been ¶(3) under ¶(b)(2). This would clarify that there are three options.	As drafted, the regulations specify two (2) options for non-water release corrective action cost estimates. The default option is to provide an estimate for complete final cover replacement. This option has two ways to calculate the estimate (providing a new estimate or using the existing closure cost estimate, adjusted as necessary, as a reasonable estimate of the cover replacement cost). The second option is to provide a site-specific corrective action plan, which must include non-water release cost estimates. §22101 has been amended to clarify this, and ¶(c) has been moved and is now ¶(b)(2).

Section	Comment #	Comment	Response
22101(c)	2N4	The corrective action requirements should not be weakened by allowing the use of a site-specific corrective action plan. The landfill cap replacement cost estimate was already an overly conservative proxy and did not account for secondary corrective actions.	The Board determined that use of the use of a site-specific corrective action plan would provide the appropriate level of protection. In addition, the site-specific plan must demonstrate the continued functionality of the final cover. The FSOR will contain further explanation regarding the decision to allow the use of a site-specific corrective action plan. After consideration, the comment is noted, but no amendment is suggested.
22101(d)	2M8	The non-water quality corrective action cost estimate should be for the single most expensive corrective action event that could occur.	This § has been amended to clarify that the corrective action cost estimate only needs to cover corrective action activities required per the applicable requirements of ¶¶(a) or (b). Also, definitions of corrective action and causal event have been included in §22100(c) to further define how the corrective action cost estimates are to be determined.
22101(e)	2F1	A new ¶ should be added specifying that the operator is not required to prepare all three estimates pursuant to ¶(a), (b), and (c).	Changes have been made to clarify that the regulations require the operator to provide two types of corrective action estimates: one for water release and one for non-water release. If an operator chooses to prepare a corrective action plan, multiple estimates may be needed to determine which causal event and resulting corrective action scenarios result in the highest total corrective action amount per causal event. For non-water release corrective action, the operator may comply with either ¶(b)(1) or (2) by preparing an estimate based on final cover replacement or utilizing a site-specific plan.
22102	2H5, 2I1	The title of this § should be revised to Site Specific Corrective Action Plan Requirements.	By default, all plans (e.g., closure plans, postclosure maintenance plans, RDSIs, etc.) are site-specific; therefore, inclusion of the term site-specific is unnecessary. After consideration, the comment is noted, but no amendment is suggested.

Section	Comment #	Comment	Response
22102	2N8	The results of the corrective action plan should be binding (i.e., the operator should not have the option of ignoring the results of the independent analysis).	This proposed suggestion would be difficult to implement and enforce. The operator would have to first notify Board staff that they have hired a consultant to prepare the plan. Then the consultant would have to submit all documentation to the Board at the same time of submittal to the operator. Board staff would have to be involved in all discussions pertaining to the preparation of the plan. These procedures would be untenable. No further amendment is suggested.
22102(a)	2D17, 2L3, 2M19	Activities and costs associated with postclosure maintenance should not be included in the corrective action cost estimate.	A definition of corrective action has been included, which indicates that routine maintenance is not considered corrective action.
22102(a)	2F2	This § should be revised to specify that it is a "site-specific" evaluation.	This ¶ references 22101(c), which specifies that the plan is site-specific. After consideration, the comment is noted, but no amendment is suggested.
22102(a)	2F3	This § should be revised to specify that the evaluation "may include, but is not limited to," partial final cover replacement, landfill gas migration, leachate seeps, slope failures, erosion, surface and subsurface fires, and waste disposal outside the permitted disposal area.	Change was made to clarify that the evaluation "may include, but is not limited to"...
22102(b)	2E6	Detailed cost calculations should only be required for a limited number of corrective actions that are judged likely to be the most expensive.	Sufficient cost estimate detail is needed to determine which are the more expensive corrective actions. The level of detail will depend upon the extent of corrective action based on the various scenarios (e.g., causal events). It is not appropriate to limit the number of corrective actions requiring detailed cost estimates since the plans are site-specific and the potential corrective actions are unknown. After consideration, the comment is noted, but no amendment is suggested.

Section	Comment #	Comment	Response
22102(b)	2N5	The site-specific corrective action plan cost estimate should be a cumulative analysis of all risks posed by the landfill over an extended period of time and not an analysis of the highest single cost.	§22100 has been revised to define "Corrective action" and "Causal event." The corrective action plan cost estimate must be based on an evaluation of the known or reasonably foreseeable non-water corrective actions needed as a result of each known or reasonably foreseeable causal event. To be further explained in the FSOR, this approach provides the appropriate level of protection to the State.
22102(c)	2F4	Only landfills within two years of final closure should be required to perform the evaluation of the long-term performance of the final cover system.	This § has been revised to more clearly define the extent of the analysis. In addition it is imperative that final covers be designed to be functional for many decades. If a proposed design will not be functional for an extended period of time, it may be appropriate to modify the design. Therefore, analysis of cover functionality is important even for active sites. No further amendment is suggested.
22102(d)	2N7	The site-specific analysis should be prepared by an independent company that does not contract with the landfill operator for other services (i.e., insurance analyst or risk assessor).	¶(e) has been added to this §. ¶(e) specifies that the plan be prepared and certified by a third party that meets specified conditions, including independence from the landfill operator.
22102(d)(2)	2D3, 2D18, 2G2, 2J13, 2K5	The term "affiliated" should be removed as this term severely limits the pool of available consultants.	This § has been revised to more clearly define what criteria a third party must meet. The term "affiliated" has been removed.
22102(d)(2)	2H7, 2I2	The terminology of this § is too broad and vague. "Designed the landfill" and "affiliated" should be reworded.	This § has been revised to more clearly define what criteria a third party must meet. The term "affiliated" has been removed.
22102(d)(2)	2J4, 2M3, 2M20	The term "affiliated" should be better defined or other terminology used.	This § has been revised to more clearly define what criteria a third party must meet. The term "affiliated" has been removed.

Section	Comment #	Comment	Response
22102(d)(2)	2D4, 2D19, 2F5, 2G4, 2K5	A third party review for the corrective action plan is unnecessary because the regulatory agencies serve this purpose and third party review is not required for other documents.	While regulatory agencies serve as a third party review, this § requires a third party preparation, not a third party review. Third party preparation of the corrective action plan is appropriate because there is an enhanced risk of a conflict of interest in this situation; a non-third party preparer could be less inclined to include potential corrective actions that could be the result of deficiencies in the original design. Therefore, it's appropriate to have an independent analysis of how an existing design will withstand the impacts of a causal event (i.e., what corrective action may be necessary). There is an enhanced risk of a conflict of interest in this situation. No further amendment is suggested.
22102(d)(2)	2D5, 2D20, 2E7, 2G4, 2K5	A third party review for the corrective action plan is unnecessary because professional engineers are mandated to meet conflict of interest provisions.	Existing regulatory conflict of interest provisions appear to be limited and so do not provide the necessary protection to the CIWMB. Accordingly, third party preparation of the corrective action plan is appropriate for the reasons stated in the above response. No further amendment is suggested.
22102(d)(2)	2F6	Registered geologists should be added to the list of acceptable preparers.	Under current licensing standards, registered geologists are not licensed to perform many of these tasks. No further amendment is suggested.
22103	2J5, 2J13	This § should allow the operator to attest that no significant changes to the cost estimate are required and that the current estimate is valid. Therefore, no updated plan is necessary.	For the past 20 years CIWMB staff has found that there have been significant changes in costs in less than five year periods. Therefore, in a previous rulemaking the cost estimate portions of the regulations were revised to require more detailed estimates and updates. Therefore, at a minimum cost estimates will need to be revised. It is possible that the causal events and corrective action scenarios may not change. In those instances, the updated plan would be the existing plan including the updated cost estimates. No further amendment is suggested.

Section	Comment #	Comment	Response
22103(a)	2E8	The previous requirement of only using preparers "not affiliated" with the landfill owner or operator will result in few qualified professionals available for preparation of updates.	The§22102(e) requirement for third party preparation of a corrective action plan has been revised to more clearly define what criteria a third party must meet. If the initial corrective action plan preparer continues to meet this criteria, the initial plan preparer may update the plan. No further amendment is suggested.
22103(a)	2L14	This § should be consistent with §28165 use of January 1, 1988 date.	Corrective action financial assurance is only required for landfills that operated on or after July 1, 1991, while closure and postclosure maintenance financial assurance is required for landfills that operated on or after January 1, 1988. The reference to §28165 is to be consistent and have all landfills submit updated documents on a consistent schedule.
22211(a)	2E9	This § should clarify that the reference to §21840 only refers to the version of §21840 that existed at the time of the most recently approved or submitted cost estimate and not the currently proposed version.	The currently proposed version of §21840 only clarifies the postclosure maintenance cost estimate criteria; no substantive changes to the basic criteria are being proposed. After consideration, the comment is noted, but no amendment is suggested.
22211(a)(2)(B)	2E10	The rolling 15 level is excessive and should be allowed to drop to a level of 5X or 10X either automatically or for good compliance records. The step-up would be retained.	The Board received comments on both sides of this issue and has determined that the rolling 30X with a step-down to and floor at 15X provides the appropriate level of protection to the State and to public health, safety, and the environment. Further detail will be provided in the FSOR. After consideration, the comment is noted, but no amendment is suggested.
22211(a)(2)(C)1	2K1	This § should be clear that the criterion only applies to the individual site and not to the operator as a whole.	The § has been revised.
22211(a)(2)(C)1.c	2B2	This § appears to be misplaced as parts a, b, and c list exceptions to an enforcement order.	The language was inserted at this location because it is only pertinent in the situations where the exceptions have been invoked and then revoked. After consideration, the comment is noted, but no amendment is suggested.

Section	Comment #	Comment	Response
22211(a)(2)(C)1.c	2F7	This § should be changed to clarify that only one incremental increase per 5-year period is allowed.	The § has been revised.
22211(a)(2)(C)2	2C10, 2D9, 2E11, 2J4, 2M9, 2M22	The term "proactive monitoring program" needs to be better defined.	This § has been revised to clarify the requirement of a proactive monitoring program. Furthermore, additional explanation and examples will be included in the FSOR.
22211(a)(2)(C)2	2K3	This criterion should be eliminated as it is not defined.	This § has been revised to clarify the requirement of a proactive monitoring program. Furthermore, additional explanation and examples will be included in the FSOR.
22211(a)(2)(C)2	2D6, 2D21, 2G5	An operator should not be denied a step-down based on an assessment of the proactive monitoring data. Just performing the monitoring is sufficient to meet step-down criterion.	This § has been revised to clarify the requirements of a proactive monitoring program. The revised § states that the operator must analyze the data obtained through proactive monitoring for compliance with §§21090 and 21180. However, CIWMB approval of a step-down is not contingent upon the results of the analysis.
22211(a)(2)(C)2	2D7, 2D22	Landfills in Southern California are already performing proactive monitoring and should already meet this criterion.	Comment noted. This § has been revised to clarify the requirements of a proactive monitoring program. The revised § states that existing monitoring already being done may be included within the proactive monitoring program (subject, of course, to approval of the proactive monitoring program by the regulatory agencies). Additional explanation and examples will be included in the FSOR.
22211(a)(2)(C)3	2L15	This provision should be removed as any disbursement at any time would prohibit an operator from a step-down.	The provision concerning the disbursement only applies to disbursements that have occurred during the previous five-year period as specified in ¶(a)(2)(C). No further amendment is suggested.
22211(a)(2)(C)4	2D1,2D23, 2E12, 2G1, 2J11, 2M1, 2M21	The term "not greater than" should be removed to allow for cost exceedences beyond the operator's control.	The term "not greater than" has been removed. Furthermore, additional language will be included in the FSOR to elaborate as to what activities and costs could be considered consistent with the postclosure maintenance plan.

Section	Comment #	Comment	Response
22211(a)(2)(C)4	2D2, 2E13, 2M2	Operators should not be disqualified from a step-down if the operator increases their financial assurance demonstration to account for the higher costs.	The intent of the step-down is to allow operators who have performed well to reduce the amount of their financial assurances, since landfills that are well-maintained pose less risk to public health, safety and the environment and thus there is less risk to the State in the event of operator default. Postclosure activities and costs that have not been consistent with the postclosure maintenance plan are not indicative of a well-maintained landfill, and so an operator in that scenario should not be allowed to step down. No further amendment is suggested.
22211(a)(2)(C)4	2H6	This § should be revised to allow for an of 15% of the cost estimate.	Cost overruns that are justifiable may be considered to be consistent with the plan. Additional language will be included in the FSOR to elaborate as to what actions could be considered consistent with the postclosure maintenance plan. However, it would not be appropriate to allow a step-down for any costs that are within 15% of the cost estimate, because some of those excess costs may not be justifiable and so would not be consistent with the plan. As stated above, postclosure activities and costs that have not been consistent with the postclosure maintenance plan are not indicative of a well-maintained landfill, and so an operator in that scenario should not be allowed to step-down. No amendment is suggested.
22211(a)(2)(C)4	2K2	Because costs are frequently changing, this § should be removed or revised to allow for flexibility in approving a reduction when justification for cost discrepancies is provided (discrepancies may exceed the estimated costs by 10% to 20%. The existing "consistent with" language is ambiguous.	Cost overruns that are justifiable may be considered to be consistent with the plan. Additional language will be included in the FSOR to elaborate as to what actions could be considered consistent with the postclosure maintenance plan. No amendment is suggested.
22211(a)(3)	2F8	This § should be changed to clarify that only one incremental increase per 5-year period is allowed.	The § has been revised.

Section	Comment #	Comment	Response
22211(a)(3)(A)	2D8, 2D24, 2G6	Discontinuing performance of proactive monitoring should not be a cause for a step-up since it is a voluntary program.	The intent of the step-down is to allow operators who have performed will to reduce the amount of their financial assurances, since landfills that are well-maintained pose less risk to public health, safety and the environment and thus there is less risk to the State in the event of operator default. To continue to benefit from a step-down, the operator needs to continue the actions that allowed for the step-down (i.e., the landfills must continue to be well-maintained). Otherwise, an operator could perform postclosure maintenance well for several years to receive the maximum step-downs and then revert to poor operation without any consequences. No further amendment is suggested.
22211(b)	2N9	The draw-down to 15X is environmentally and fiscally unsound since 30X results is the lowest unassured risk to the State.	The Board received comments on both sides of this issue and has determined that the rolling 30X with a step-down to and floor at 15X provides the appropriate level of protection. Further information will be provided in the FSOR. After consideration, the comment is noted, but no amendment is suggested.
22211(c)(2)(A)	2M11, 2M24	The operation experience provision should be expanded to allow the new owner to continuously retain consulting experience that would meet the required landfill experience.	This proposed criterion would be difficult to enforce. A new owner could hire a consultant and benefit from a lower financial assurance requirement and then fire the contractor at a later date. Furthermore, the operator is not obligated to heed the advice of the consultant. No further amendment is suggested.
22211(c)(2)(A)	2M12	The new owner should be allowed three years to demonstrate competency before requiring the new owner to return to a 30X multiplier.	The new operator may avail themselves of the step-down criteria in the same manner as any other operator. An operator needs to demonstrate that the landfill has been well-maintained before benefitting from step-downs. No further amendment is suggested.
22220(a)(2)	2D25, 2M23	Activities and costs associated with postclosure maintenance should not be included in the corrective action cost estimate.	Definitions of corrective action and causal event have been included, which indicate that routine maintenance is not considered corrective action.

Section	Comment #	Comment	Response
22221(a)	2H2, 2J1, 2J8	For clarity, the term "whichever is greater" should be deleted.	This § has been revised to clarify the use of the term "whichever is greater." The term is used in several sections concerning cost estimates. It is used to require that either the highest recently submitted or highest approved estimate be used until the most recent estimate is approved. This prevents an operator from submitting a low, inaccurate estimate for financial assurance purposes.
22221(a)	2J16	The inclusion of §22100 seems inappropriate since §22100 is for CIWMB corrective action and the sentence is for water board requirements for reasonable and foreseeable releases.	It appears that the commenter was reviewing a previous version of this §. The current version does not contain this reference.
22221(b)	2J3, 2J7	This § should more clearly state that the required financial demonstration is the greater estimate of the water quality and non-water quality cost estimates.	¶(b) has been amended to clarify that the required financial assurances is the greater of the water release and non-water release estimates.
22221(b)	2M4	The regulations need more clarity to differentiate the repeated references to the term "whichever is greater" throughout this §.	This § has been revised to clarify the use of the term "whichever is greater." The term is used in several sections concerning cost estimates. It is used to require that either the highest recently submitted or highest approved estimate be used until the most recently submitted estimate is approved. This prevents an operator from submitting a low, inaccurate estimate for financial assurance purposes.
22221(b)	2N6	The corrective action cost estimate should be additive and include both the water and non-water quality estimates.	The Board received comments on both sides of this issue and has determined that use of the greater of either the water release or non-water release corrective action estimates provides the appropriate level of protection. Further explanation will be provided in the FSOR. After consideration, the comment is noted, but no amendment is suggested.

Section	Comment #	Comment	Response
22221(b)(1)	2H3, 2J1, 2J9	For clarity, the term "whichever is greater" should be deleted.	This § has been revised to clarify the use of the term "whichever is greater." The term is used in several sections concerning cost estimates. It is used to require that either the highest recently submitted or highest approved estimate be used until the most recently submitted estimate is approved. This prevents an operator from submitting a low, inaccurate estimate for financial assurance purposes.
22221(b)(2)	2E14	Since this § refers to §22101(b), our comments on that § (2E5) also apply.	The use of the closure cost estimate in lieu of preparing a more specific final cover replacement estimate is provided as an option for operators. The purpose of using the closure cost estimate is to serve as a reasonable estimate of the cost of final cover replacement, in lieu of requiring an operator to provide a more specific, detailed estimate. Since all landfills must already prepare closure cost estimates, this option allows an operator to easily and inexpensively prepare a corrective action cost estimate for the cover replacement cost. §22101(b)(1) has been amended to clarify the purpose of using the closure cost estimate in this situation.
22221(b)(2)	2E15	Since this § refers to §22101(c), our comments on that § (2E6) also apply.	Sufficient cost estimate detail is needed to determine which are the more expensive corrective actions. The level of detail will depend upon the extent of corrective action based on the various scenarios (e.g., causal events). It is not appropriate to limit the number of corrective actions requiring detailed cost estimates since the plans are site-specific and the potential corrective actions are unknown. After consideration, the comment is noted, but no amendment is suggested.

Section	Comment #	Comment	Response
22221(b)(2)	2H23, 2J1, 2J10	For clarity, the term "whichever is greater" should be deleted.	This § has been revised to clarify the use of the term "whichever is greater." The term is used in several sections concerning cost estimates. It is used to require that either the highest recently submitted or highest approved estimate be used until the most recently submitted estimate is approved. This prevents an operator from submitting a low, inaccurate estimate for financial assurance purposes.
22234(a)	2C11	The word "and" should be removed from the end of ¶(a)(1) and inserted at the end of ¶(a)(2).	The requirements of ¶¶(a)(1) and (2) apply in all situations. Therefore, the use of "and" between these ¶¶. ¶(a)(3) only applies to corrective action. Therefore, inclusion of "and" after ¶(a)(2) would imply that all three ¶¶ apply in all cases, which is not accurate. After consideration, the comment is noted, but no amendment is suggested.
22234(b)	2C12	The alternative schedule should be limited to less than five years.	The regulation does not specify if the alternative schedule may be greater or less than five years. To allow for flexibility in those cases where a greater than five-year period is warranted, the regulation is open-ended. After consideration, the comment is noted, but no amendment is suggested.